

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

HUNG VAN NGUYEN,

Petitioner,

V.

JEFFREY UTTECHT,

Respondent.

CASE NO. C16-1711-JCC-JPD

ORDER DENYING PETITIONER'S
MOTION TO CERTIFY
QUESTIONS TO THE
WASHINGTON STATE SUPREME
COURT

This is a federal habeas action filed under 28 U.S.C. § 2254. Petitioner is currently

incarcerated at the Coyote Ridge Corrections Center. This matter comes before the Court upon petitioner's February 27, 2017 Motion for Order Directing This Court to Certify Questions to the Washington State Supreme Court. Dkt. 49. Specifically, petitioner poses several procedural questions regarding the authority of the judges or commissioners of the Washington State Court of Appeals and Washington State Supreme Court to resolve the merits of his personal restraint petition or motion for discretionary review. *Id.* at 1.

“Washington’s Federal Court Local Law Certificate Procedure Act, Wash. Rev. Code §§ 2.60.010–900, authorizes the Washington Supreme Court to accept certified questions from federal courts.” *Queen Anne Park Homeowners Ass’n v. State Farm Fire & Cas. Co.*, 763 F.3d

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SUPREME COURT - 1

1 1232, 1235 (9th Cir. 2014). Under RCW 2.60.020, certification of a question to the Washington
2 Supreme Court is appropriate where “it is necessary to ascertain the local law of this state in
3 order to dispose” of a proceeding in federal court and “the local law has not been clearly
4 determined.” Further, under Washington’s Rules of Appellate Procedure 16.16,

5 The Supreme Court may entertain a petition to determine a question of law
6 certified to it under the Federal Court Local Law Certificate Procedures Act if the
7 question of state law is one which has not been clearly determined and does not
8 involve a question determined by reference to the United States Constitution.

9 Petitioner’s motion to certify his procedural questions to the Washington State Supreme
10 Court, Dkt. 49, is DENIED. Petitioner has failed to show that “it is necessary to ascertain the
11 local law” in order to rule on his federal habeas proceeding, or that “local law has not been
12 clearly determined.” This Court is able to address the merits of petitioner’s habeas petition and
13 does not require the assistance of the Washington Supreme Court. As a result, certification is not
14 appropriate.

15 The Clerk of the Court is directed to arrange for electronic service of this Order upon the
16 Attorney General of the State of Washington and petitioner.

17 DATED this 2nd day of March, 2017.

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19 JAMES P. DONOHUE
20 Chief United States Magistrate Judge
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